

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 027888

67

ORIGIN TRSE-00

INFO OCT-01 EUR-12 IO-11 ISO-00 FEA-01 SSO-00 NSCE-00

INRE-00 USIE-00 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00

EB-07 FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00

NSC-05 PA-01 AID-05 CIEP-01 SS-15 STR-04 ITC-01

PRS-01 SP-02 OMB-01 /098 R

TX

DRAFTED BY TREAS:DHSTOUGHTON:SW

APPROVED BY EB/OT/STA:WCLARKJR

TREAS:RMUNK

TREAS:WBARREDA

TREAS:GHUFBAUER

EB:JGREENWALD

EB/OT/STA:MCJONES

EUR/RPE:RBRESLER

EB/IFD/OMA:MTMINNIES

TREAS:RPATRICK

----- 054456

O 050058Z FEB 76

FM SECSTATE WASHDC

TO AMEMBASSY BONN IMMEDIATE

INFO USMISSION EC BRUSSELS IMMEDIATE

USMISSION GENEVA

USDEL MTN GENEVA

USMISSION OECD PARIS

LIMITED OFFICIAL USE STATE 027888

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 027888

E.O. 11652:N/A

TAGS:ETRD, GW, GATT, EC

SUBJECT:GATT PANELS ON DISC AND RELATED TAX PRACTICES

REF: BONN 1593

1. CONCUR WITH EMBASSY'S JUDGMENT IN PARA 2 THAT NOTHING SHOULD BE DONE AT THIS POINT TO ENCOURAGE FURTHER BILATERAL DISCUSSION OF DISC.

2. AS REQUESTED IN REFTTEL, THE FOLLOWING IS A BRIEF STATEMENT OF U.S. POSITION ON DISC LEGISLATION:

A. USG AT PRESENT SUPPORTS THE RETENTION OF THE DISC PROVISIONS.

B. THE DISC LEGISLATION WAS INSTITUTED FOR REASONS APART FROM ITS EFFECT ON THE U.S. TRADE BALANCE. THE DISC LEGISLATION WAS DESIGNED TO REMOVE AN EXISTING DISTORTION IN INTERNATIONAL TRADE AND INVESTMENT WHICH RESULTED FROM THE INCOME TAX STRUCTURES OF THE UNITED STATES AND OTHER COUNTRIES. THIS DISTORTION DISADVANTAGED U.S. EXPORTING FIRMS. THIS DISTORTION OCCURRED BECAUSE SALES INCOME ON EXPORTS OF U.S. BASED MANUFACTURERS, EXPORTING

THROUGH A FOREIGN SALES SUBSIDIARY, IS SUBJECT TO U.S. TAX BY REASON OF THE ANTI-TAX HAVEN PROVISIONS OF U.S. LAW (SUBPART F OF THE INTERNAL REVENUE CODE). THIS CONTRASTS WITH THE LAW OF MOST OTHER COUNTRIES WHICH PROVIDE FOR AN EXEMPTION FROM TAX FOR THE INCOME OF FOREIGN SUBSIDIARIES OF LOCAL PARENTS. IN SOME CASES ALL FOREIGN SOURCE INCOME IS EXEMPT FROM TAX. IF THE SALES ELEMENT OF THE PROFIT ON EXPORTS CAN BE ALLOCATED ABROAD (IN MOST CASES IT CAN) THEN THE SALES ELEMENT IS EFFECTIVELY EXEMPT FROM TAX. A PRIMARY PURPOSE OF THE DISC LEGISLATION WAS TO REMOVE THIS DISTORTION BY PROVIDING TAX DEFERRAL FOR A PORTION OF THE EXPORT SALES INCOME OF U.S. BASED MANUFACTURING FIRMS. THUS THE EFFECT OF THE DISC LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 027888

IS TO NEUTRALIZE TAXATION AS A CONSIDERATION FOR U.S. FIRMS IN DECIDING WHETHER TO LOCATE MANUFACTURING FACILITIES AT HOME OR ABROAD.

C. IN ADDITION THE DISC PROVISIONS HAVE REMOVED THE COMPETITIVE DISADVANTAGE PREVIOUSLY EXPERIENCED BY U.S. EXPORTERS BY BRINGING U.S. TAX PRACTICES MORE IN LINE WITH THOSE OF OTHER COUNTRIES, WHICH FOLLOW THE TERRITORIALITY PRINCIPLE OF TAXATION AND DO NOT TAX CURRENTLY FOREIGN SOURCE INCOME ARISING FROM EXPORT SALES. PRIOR

T&-THE-DISE-B.S. TAX PRACTICES PLACED U.S. EXPORT TO THE DISC, U.S. TAX PRACTICES PLACED U.S. EXPORTERS AT A COMPETITIVE DISADVANTAGE VIS-A-VIS MOST OF THEIR MAJOR FOREIGN COMPETITORS. AS NOTED ABOVE, UNDER U.S. TAX LAW THE COMPANY EXPORTING FROM THE U.S. THROUGH A FOREIGN BRANCH IS FULLY AND CURRENTLY SUBJECT TO U.S. INCOME TAXATION. MOREOVER A U.S. COMPANY EXPORTING THROUGH A FOREIGN SALES SUBSIDIARY LOCATED IN A LOW-TAX COUNTRY IS SUBJECT TO CURRENT U.S. TAXATION. ON THE OTHER HAND, MANY OTHER COUNTRIES DO NOT TAX CURRENTLY THE EXPORT SALES INCOME OF FOREIGN BRANCHES OR CORPORATIONS OF EXPORTING FIRMS. IN SOME COUNTRIES THE EXPORT SALES INCOME OF FOREIGN SUBSIDIARIES IS PARTIALLY OR WHOLLY EXEMPTED FROM TAXATION. THE DISC PROVISIONS ARE DESIGNED TO ELIMINATE THIS COMPETITIVE DISADVANTAGE OF U.S. EXPORTING FIRMS.

3. WHEN TRADE ACCOUNTS ARE STATED CONSISTENT WITH EUROPEAN PRACTICE ON CIF AND FOB VALUATION AND ALLOWANCE IS MADE FOR AID AND MILITARY SHIPMENTS, THE U.S. 1975 TRADE SURPLUS IS MUCH SMALLER THAN PUBLISHED FIGURES WOULD INDICATE. IN ANY EVENT, MUCH OF THE 1975 TRADE SURPLUS IS ATTRIBUTABLE TO WORLD-WIDE TRADE EXPANSION AND VARYING INFLATIONARY MOVEMENTS.

4. RE PARA ID, GATT PANELS WILL REVIEW EC COMPLAINTS AGAINST DISC AND FIRST MEETING OF PANELS IS TENTATIVELY SCHEDULED FOR WEEK OF MARCH 15. PROCEDURES ARE TO BE ESTABLISHED BY PANELS AND USG FAVORS FULL AIRING OF ISSUES INVOLVED. INGERSOLL

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TRADE BALANCE, MEETINGS, TAX RELIEF
Control Number: n/a
Copy: SINGLE
Draft Date: 05 FEB 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE027888
Document Source: CORE
Document Unique ID: 00
Drafter: DHSTOUGHTON:SW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760043-0154
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760278/aaaacqow.tel
Line Count: 144
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN TRSE
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 BONN 1593
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 24 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <24 MAR 2004 by ElyME>; APPROVED <27 MAY 2004 by morefirh>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ATT PANELS ON DISC AND RELATED TAX PRACTICES
TAGS: ETRD, GE, US, GATT, EEC
To: BONN
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006